

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 277 OF 2005

IN

FAMILY COURT APPEAL (ST) NO. 91 OF 2005

JANARDHAN HARISHCHANDRA KATKAR .. APPLICANT

Versus

VINOD NARAYAN SATPUTE & ORS. .. RESPONDENTS

Mrs. S. A. Dhamale for applicant

Mr. Sarang Aradhye for respondent

CORAM:-SMT. RANJANA DESAI &

D.B. BHOSALE, JJ.

DATED:-13/2/2006

P.C.

. This interim application is made by the applicant praying for custody of both the minor children (1) Mitul and (2) Prathamas, pending the hearing and final disposal of this appeal.

2. By orders dated 12/9/05 and 19/9/05 this court had granted access to the applicant. The applicant was to meet the children between 4 p.m. and 6 p.m. on every Tuesday and Friday at the applicant's

house.

3. The children are presently staying with their maternal aunt and uncle. In order to ascertain whether the children would like to stay with the applicant who is their father, by our orders dated 3/2/06 and 6/2/06, we tried to ensure that the children spend more time with the applicant.

4. By our order dated 6/2/06 we had directed that on 11/2/06 Gayatri Satpute, the maternal aunt of the children shall take the children to the house of the applicant Janardhan Katkar at about 1 p.m. in the afternoon. We had directed that the children should stay there on 11/2/06 overnight. There was a further direction that they should spent entire Sunday i.e. 12/2/06 with the applicant and his wife and on 13/2/06 the applicant and his wife were directed to bring the children to our Chamber at 3 p.m.

5. Accordingly the children have spent two days with the father and they have been brought to us directly from the father's house as directed. Today in the court, the maternal aunt and uncle, father and step-mother of the children are present.

We have interviewed the children separately. We have also interviewed maternal aunt and uncle and the father and step mother of the children.

6. After interviewing the children, we feel that this is not the right time to direct that custody of the children be handed over to the applicant father. As of today the children appear to be attached to the maternal aunt and uncle. Children are young and they have spent considerable period with the aunt and uncle. Separating them from their aunt and uncle at this stage, in our opinion, will cause emotional disturbance in their life. They seem to be having some reservation about their step mother. However, we feel that in the interest of the children and considering the fact that the applicant is their natural father, we should ensure that children spend little more time with the applicant father so that they get used to him. In the circumstances we pass the following order:

a) We direct that children (1) Mitul and (2) Prathamas shall be taken by maternal aunt and uncle to the applicant's house on 1st and 3rd Sunday. They shall be there from 12 O'clock in the morning to 7 p.m. in the evening On two other Sundays they

shall be with the applicant between 12 p.m. to 4 p.m. We make it clear that this is not a final arrangement, it can obviously be varied if the circumstances so demand. If, for some reason parties are not in a position to adhere to this arrangement on any particular day, they shall mutually agree on some other day.

b) Liberty to the parties to apply for access in the vacation.

c) Civil application disposed of.

(SMT. RANJANA DESAI, J.)

(D. B. BHOSALE, J.)